

APPENDIX I

PROGRAMMATIC AGREEMENT
AMONG
THE DEPARTMENT OF THE ARMY,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND
THE NATIONAL CONFERENCE OF STATE HISTORIC
PRESERVATION OFFICERS
CONCERNING
INACTIVATION AND PARTIAL INACTIVATION OF ARMY
MATERIEL COMMAND INSTALLATIONS





KANSAS STATE HISTORICAL SOCIETY

HISTORIC PRESERVATION OFFICE

Center for Historical Research

120 West Tenth * Topeka, Kansas 66612-1291

913-296-7080 * FAX 913-296-1005

November 18, 1992

Lt. Col. Richard Jackson
Sunflower Army Ammunition Plant
P.O. Box 640
Desoto, Kansas 66018-0640

Subject: Identification and Assessment of Structures Eligible for the National Register of Historic Places at Sunflower Army Ammunition Plant in Desoto, Kansas

Dear Lt. Col. Jackson:

The materials received November 6, 1992, regarding the above referenced undertaking have been reviewed in accordance with federal regulations for the protection of historic properties 36 CFR Part 800.

The State Historic Preservation Officer (SHPO) concurs with your determination that the plant as a whole has significance under Criterion A, but that the structures and equipment lack the integrity needed for inclusion in the National Register of Historic Places. The SHPO also concurs that the Roberts House is eligible for the National Register of Historic Places under Criterion B and C. The SHPO, therefore, would like to know what measures will be taken to preserve the Roberts House. We hope that the Memorandum of Agreement will address this problem as well as the concerns of the DeSoto Historical Society, which has indicated interest in the preservation of this property.

You may contact Desmond Anyanwu at (913) 296-0788 if you have any questions.

Sincerely yours,

Ramon Powers
Ramon Powers
State Historic Preservation Officer

da

cc: Lee Keatinge, Advisory Council

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

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To <i>Mary Jane Beck</i>	From <i>Sunflower AAP (Desoto)</i>
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NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

1417

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages ► 3

To <i>Paul McGuff</i>	From <i>Sunflower AAP (Desoto)</i>
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NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION



**PROGRAMMATIC AGREEMENT
AMONG
THE DEPARTMENT OF THE ARMY
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS
CONCERNING
INACTIVATION AND PARTIAL INACTIVATION OF ARMY MATERIEL COMMAND
INSTALLATIONS**

WHEREAS, under initiatives from its major subordinate commands, the Army Materiel Command (AMC) proposes to cease production in order to inactivate certain ammunition plants and partially inactivate certain tank plants, but to retain these plants to meet future mobilization requirements; and

WHEREAS, the Army defines an inactive plant as an installation at which there is no direct workload, and an installation that is retained and maintained for mobilization requirements; and

WHEREAS, the Army defines an inactive plant as one used only by caretaking detachments, and retained on non-use status to support mobilization requirements, or to await transfer to another Federal agency or other disposal; and

WHEREAS, the Army defines partial inactivation as inactivating specific portions of the plants, for example, reducing tank vehicle production and elimination or layaway in place of the tank assembly line; and

WHEREAS, the Army determines that its implementation of the inactivation program may effect properties included in or eligible for inclusion in the National Register of Historic Places (historic properties); and

WHEREAS, the Army has consulted with the Advisory Council on Historic Preservation (Council) and the National Conference of State Historic Preservation Officers (NCSHPO) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Sections 106 and 110 (f) of the National Historic Preservation Act (NHPA) and Army Regulation 420-40, "Historic Preservation;"

NOW, THEREFORE, the Army, the Council, and the NCSHPO agree that the Army's implementation of the inactivation program shall be administered in accordance with the following stipulations, which will satisfy the Army's Section 106 responsibilities for all individual undertakings under the inactivation program.

Stipulations

The Army will carry out the following measures.

I. APPLICABILITY:

The terms of this agreement apply to the inactivation of Detroit Arsenal Tank Plant, Lima Army Tank Plant, Louisiana Army Ammunition Plant, Scranton Army Ammunition Plant, Kansas Army Ammunition Plant, Longhorn Army Ammunition Plant, and Sunflower Army Ammunition Plant. These plants are in Michigan, Ohio, Louisiana, Pennsylvania, Kansas, and Texas. With the written consent of the NCSHPO and the Council, indicated by execution of the form at Attachment 1, the Army may amend this Agreement to include additional installations proposed for inactivation under future initiatives.

II. AREAS OF POTENTIAL EFFECTS:

A. The area of potential effects (36 CFR 800.2[c]) of an inactivation comprises the facility buildings and structures. The undertaking of inactivation may result in changes in maintenance levels for buildings and structures. The undertaking will not effect other historic properties because the Army will continue without change land management activities and staffing.

B. Some inactivations may cause reductions in population, reductions in amount of traffic, and changes in land use that extend beyond the applicable plants. The Army expects minor impacts in these areas and there is no reasonably foreseeable effect from these changes on historic properties beyond plant boundaries.

C. Parties to this agreement shall use Stipulation IX to resolve disputes over the area of potential effects.

III. NATIONAL ENVIRONMENTAL POLICY ACT AND PRELIMINARY COORDINATION WITH SHPO:

A. This agreement provides a process and commitment to mitigation of significant adverse impacts from the undertaking on historic properties.

B. Nevertheless, in cases when, in accordance with the National Environmental Policy Act (NEPA), the Army files or plans to file a Finding of No Significant Impact (FNSI):

1. AMC will implement the terms of the agreement during the National Environmental Policy Act (NEPA) process; and

2. The Army will include the Army Historic Preservation Officer in the final review and approval of the FNSI, and, AMC will state in the EAs or FNSIs that AMC will comply with NHPA. AMC will complete necessary actions to inventory, assess, and take into account the effects on architectural historic properties within two years; and

C. The Army will provide the appropriate SHPO and the Council the Environmental Assessments for individual plants. These documents are for their review over a period concurrent with the FNSI's 30-day review period. Lack of comment by the end of the 30-day period will indicate concurrence.

D. The Army shall provide this Agreement, its attachments, AR 420-40, and 36 CFR 800 to applicable plants and intermediate command and field elements within three months following execution of this Agreement. In that package the Army will define and assign internal responsibilities for meeting the stipulations. Headquarters, Army Materiel Command assumes overall responsibility to implement and track compliance with the Agreement.

IV. IDENTIFICATION AND EVALUATION:

A. Identification.

1. When the Army determines through the process in 36 CFR 800.4(a)(1) that existing information is inadequate to identify significant buildings or structures, the Army will undertake installation-specific field surveys to identify such historic properties. The Army will complete these surveys in accordance with professional standards defined in the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44-716-42; hereafter "Standards and Guidelines").

2. The Army will develop priorities among the applicable plants to complete identification and evaluation of buildings and structures that are potential historic properties. The Army will communicate these priorities to the Agreement parties in an action plan and submit that plan and its revisions for review and comment by agreement signatories on the schedule in Stipulation VIII.

3. The Army will identify resources and evaluate their historic importance in consultation with the appropriate SHPO.

4. Throughout the planning and implementation of the inactivation program, the Army will provide guidance to the field to ensure that historic properties are not inadvertently damaged, destroyed, or allowed to substantially deteriorate.

B. Evaluation.

The Army will determine the eligibility of buildings and structures for inclusion in the National Register in accordance with 36 CFR 800.4(c), and with reference to inventories and planning by the State, the Army's history and traditions, previous Army historic structure reports and a thematic study that is currently underway to develop contexts for buildings on Army Materiel Command installations.

V. DETERMINATIONS OF EFFECT:

A. The Army shall determine the effect of inactivation on buildings and structures identified as historic properties pursuant to Stipulation IV.B in accordance with 36 CFR 800.5, applying the Criteria of Effect and Adverse Effect at 36 CFR 800.9.

B. Where the Army determines pursuant to 36 CFR 800.5 that an adverse effect may occur, then:

1. If the Army and the SHPO, taking into account the comments, if any, of the interested parties identified at 36 CFR 800.5(e)(1), agree on a program to avoid, minimize, or mitigate the adverse effect, the Army will provide the Council with

documentation to support this determination and request its concurrence within 30 days. If the Council concurs within 30 days of this receipt of such documentation, the Army shall carry out the program. Failure by the Council to respond within the specified time shall be taken to evidence the Council's concurrence. Should the Council object to the program, the Army will undertake consultation in accordance with 36 CFR 800.5(e).

2. If the Army determines that paragraph 1 above is not applicable, the Army will undertake consultation in accordance with 36 CFR 800.5(e).

VI. TREATMENT AND MANAGEMENT:

A. The Army will treat the effects of inactivation on historic properties in accordance with the results of Stipulation V.

B. Not later than four years following inactivation, unless parties to this agreement mutually determine otherwise, the Army will prepare and implement a Cultural Resources Management Plan (CRMP) for each applicable plant. These separate CRMP shall reflect the nature of the properties, the mission of the plant, and meet the standards specified in Attachment 2. The separate CRMP also shall include at a minimum:

1. An inventory of historic districts, buildings, structures and objects eligible for inclusion in the National Register of Historic Places;

2. Provision for identification and evaluation of cultural resources eligible for inclusion in the National Register of Historic Places, ensuring that such identification and evaluation will occur prior to any action that might affect such resources; and

3. Specification of the level and kind of treatment the Army will accord each historic property in the event of:

- a. Continued active use;
- b. Adaptive use;
- c. Layaway;
- d. Preservation in place;
- e. Preservation maintenance;
- f. Demolition.

4. An explanation of how the activities at the plant will comply with the Native American Graves Protection and Repatriation Act, Public Law 101-601, including but not limited to:

- a. A discussion of the known or probable locations of Native American cultural items, as that term is defined in the Native American Graves Protection and Repatriation Act;

b. A discussion of the known or probable nature of those Native American cultural items;

c. A discussion of who will obtain any necessary permits under Section 4 of the Archeological Resources Protection Act of 1979, 16 U.S.C. 470aa, et seq.;

d. A discussion of what the Archeological Resources Protection Act permit should specify in order to minimize the potential for a 30-day work stoppage.

e. What (if any) Indian tribe will be consulted prior to the planned excavation or removal;

f. What disposition will be made of the excavated or removed items; and,

g. What will constitute proof of consultation under e. above.

C. When the CRMP is complete in draft, the Army will provide copies of the draft CRMP to the Council and SHPO for review and comment, and will resolve any objections or questions about the draft raised by the Council or SHPO through consultation with the objecting party and other interested parties (if any).

D. Upon approval of the draft CRMP by the Council and SHPO, the Army will finalize and implement the CRMP.

E. Until the CRMP is implemented the Army will comply with 36 CFR Part 800. Provided that:

1. Those activities outlined in Attachment 3 need not be reviewed under 36 CFR 800;

2. The Army will presume any activity not in Attachment 3 has the potential for effect on historic properties;

F. Notwithstanding any other provision of this Agreement, the Army after it notifies appropriate SHPO may undertake documentation of historic structures in a manner consistent with the Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation (48 FR 44730-34) prior to making a determination or reaching an agreement pursuant to Stipulation V., if the Army judges that such documentation is likely to be part of a subsequent mitigation program.

G. The Army will continue to assign an individual at each applicable plant duties as Cultural Resource Management Officer (CRMO). CRMO duties include tracking and ensuring compliance with historic preservation laws and agreements.

H. The Army will not construct, lease, or dispose of real property until it meets the terms of this agreement or NHPA.

VII. PUBLIC INVOLVEMENT:

A. To the extent possible, the Army will coordinate public participation under NEPA with that for historic preservation decisions. The Army shall seek information on the level of public interest in historic properties at an applicable plant through observing the public response and comments to NEPA documents.

B. In consultation with the appropriate SHPO, the Army will consider the need for additional involvement from interested or other consulting parties consistent with the Council's publication, "Public Participation in Section 106 Review: A Guide for Agency Officials" (Advisory Council on Historic Preservation, 1989).

VIII. REPORTING:

A. The Army Materiel Command shall provide semiannual reports on progress under this Agreement. Semiannual reports will include not only information on progress toward goals of inventory, assessment, and planning, but also information on use by applicable plants of the exemptions listed in Attachment 3. The Army will provide the Council and NCSHPO with these reports in the first weeks of December and May until the Army meets stipulations, or the Army or other signature party terminates the Agreement.

B. The Army shall notify the Council and NCSHPO if it becomes likely that funds to implement this agreement will not be available. The Army understands that funding does not change responsibility to carry out the mandates of NHPA, but, fund availability does effect the ability of the Army to use this agreement to satisfy responsibilities. Therefore, it is critical to meet the schedules specified in stipulations III.B.2. and VI.B. Non-availability of funds will result in a need for dispute resolution as specified in Stipulation IX. Accordingly:

1. Reference Stipulation III.B.2., the Army shall provide notification, if necessary, not later than one year following execution of this agreement;

2. Reference Stipulation VI.B., the Army shall provide notification, if necessary, not later than two years following execution of this agreement.

IX. DISPUTE RESOLUTION:

A. Should the parties to this Agreement, an individual SHPO, or an interested person identified at 36 CFR 800.5(e)(1) object to the Army's implementation of any part of this Agreement, the Army shall consult with the objecting party to resolve the objection. If the Army determines that the objection cannot be resolved, the Army shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will either:

1. provide the Army with recommendations, which the Army will take into account in reaching a final decision regarding the dispute; or

2. notify the Army that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment within 60 days. Any Council comment provided in response to

such a request will be taken into account by the Army in accordance with 36 CFR 800.6(c)(2) with reference to the subject of the dispute.

B. Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; the Army's responsibility to carry out all actions under this Agreement that are not the subject of the dispute will remain unchanged.

C. Should a member of the public object to any measure carried out under the terms of this Agreement, or the manner in which such a measure is implemented, the Army shall take the objection into account and consult as needed with the objecting party, the SHPO, and the Council to resolve the objection.

X. AMENDMENTS:

Any party to this Agreement who recognizes it is impossible to meet some portion of the Agreement must immediately request the other signatories to consider amendment or addendum. Should any party to this Agreement be unable to maintain a level of effort sufficient to carry out the terms of this Agreement, that party shall notify the others and seek an appropriate amendment. This Agreement may be amended with the written consent of all the parties (Attachment 1).


XI. TERMINATION AND DURATION.

A. Any party to this Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination; the Army will comply with 36 CFR Part 800.4 through 800.6 with regard to individual undertakings covered by this Agreement.

B. The effective date of this Agreement is the date of its execution by all parties. The Agreement duration is five years from the date of its execution or until the Army implements CRMPs through a separate programmatic agreement, which ever is the shorter time period.

Execution and implementation of this Programmatic Agreement evidences that the Army has satisfied its responsibilities under Section 106 of the National Historic Preservation Act for all individual undertakings of the program.

DEPARTMENT OF THE ARMY

BY 
PAUL W. JOHNSON
Deputy Assistant Secretary of the Army
for Installations and Housing

Date: 8 JULY 1992

BY: William B. McGrath Date: 23-6-92
WILLIAM B. McGRATH
Major General, USA
Chief of Staff
U.S. Army Materiel Command

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

BY: H. Bryan Mitchell Date: 7/17/92
H. BRYAN MITCHELL
President

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY: Dr. C. Harper Date: 7/15/92
REVEREND DR. JOHN C. HARPER
Chairman

**ATTACHMENT 1:
AMENDMENT FORM**

AMENDMENT # _____

DATE: _____

**Amendment to the
PROGRAMMATIC AGREEMENT
AMONG
THE DEPARTMENT OF THE ARMY,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS
CONCERNING
INACTIVATION AND PARTIAL INACTIVATION OF ARMY MATERIEL COMMAND
INSTALLATIONS**

1. Need for Amendment:

[Describe briefly]

2. Amendment:

[Specify]

DEPARTMENT OF THE ARMY

BY: _____ Date: _____

Deputy Assistant Secretary of the Army
for Installations and Housing

BY: _____ Date: _____

Chief of Staff
U.S. Army Materiel Command

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

BY: _____ Date: _____

President

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY: _____ Date: _____

Chairman

ATTACHMENT 2

CULTURAL RESOURCE MANAGEMENT PLAN STANDARDS

The following standards apply to Cultural Resource Management Plans (CRMPs) prepared for the applicable plants.

A. Prepare the CRMP by or under the supervision of an individual who meets, or individuals who meet, at a minimum, appropriate professional qualifications standards in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9).

B. Prepare the CRMP with reference to:

1. Army Regulation 420-40, "Historic Preservation" (present and future editions);

2. The Secretary of the Interior's Standards and Guidelines for Preservation Planning (48 FR 44716-20);

3. The Section 110 Guidelines (53 FR 4727-46; Advisory Council on Historic Preservation and National Park Service 1989); and

4. The State Historic Preservation Plan.

C. Prepare the CRMP in consultation with the Council and the SHPO.

D. The CRMP shall address the full range of historic properties that may exist on the lands including buildings, structures, objects, archeological sites, landscapes, and traditional cultural properties.

E. The CRMP will incorporate data produced by the survey work conducted pursuant to Stipulation IV.

F. Prepare the CRMP to meet an essential purpose to establish processes for integrating the preservation and use of historic properties with the specific land use programs. Make integration goals appropriate to the nature of historic properties, the nature of the lands, and the nature of the plant's mission.

G. In order to facilitate such integration, make the CRMP, including all maps and graphics, consistent with the plant's planning system.

H. The CRMP need not be a single document.

I. The CRMP will include the following elements:

1. An explicit statement of Army policy toward historic properties. That statement will explain how to address the requirements of applicable historic preservation laws and regulations.

2. An introduction to the organization and use of the various sections of the CRMP.

3. A synthesis of available data on the history, prehistory, landscape architecture, and ethnography of the lands and the surrounding area, to provide a context in which to evaluate and consider alternative treatment strategies for different classes of historic properties.

4. Procedures for the identification and evaluation of historic properties potentially affected by activities on the lands. These procedures will provide for identification and evaluation on a timely schedule during the planning for actions that might affect historic properties.

5. Procedures for the management of historic properties within the lands, including but not limited to:

a. Procedures for the use of historic properties for agency purposes or the purposes of others, in a manner that does not cause significant damage to or deterioration of such properties, with reference to the Section 110 Guidelines, Section 110(a)(1), Discussion (b);

b. Procedures for affirmative actions to preserve historic properties, with reference to the Section 110 Guidelines, Section 110(a)(1), Discussion (c);

c. Procedures for the maintenance of historic properties, with reference to the Section 110 Guidelines, Section 110(a)(2), Discussion (d)(1)(i);

d. Procedures for the avoidance or mitigation of adverse effects on historic properties, with reference to the Section 110 Guidelines, Section 110(a)(2), Discussion (d)(1)(iii); and

e. Procedures to consult with relevant parties during implementation of the CRMP, with reference to the Section 110 Guidelines, Part III. These procedures will identify circumstances timing and procedures to consult with the Council, or other interested parties.

ATTACHMENT 3

ACTIVITIES THAT NEED NOT BE REVIEWED BY THE SHPO

- A. Maintenance work on existing features such as roads, fire lanes, mowed areas, disposal areas, and ditches.
- B. Ordnance disposal.
- C. Agricultural and grazing leases (excluding clearing and construction activities related to these leases that are expected to result in disturbance of the ground surface).
- D. Timber management and harvesting in areas previously surveyed for historic properties when the Army avoids identified properties and those resources of undetermined National Register of Historic Places eligibility status. The Army will place skid trails and loading and logistical staging areas at least 50 feet from historic property or other resource boundaries. The Army shall ensure removal of downed trees from these places using rubber-tired vehicles when the soil is either dry or frozen, and firm.
- E. Hunting and fishing actions.
- F. Use of land for training exercises, when such training involves no off-road vehicle use or ground disturbance, and when camping occurs in designated areas selected in consultation with the SHPO.
- G. Recreational camping in designated areas selected in consultation with the SHPO.
- H. Outgrants and contracting actions when the proposed use involves no active or potential construction, alteration, destruction, use of buildings or structures, relocation of buildings or structures, or disturbance of the ground surface.
- I. Routine facilities maintenance activities that do not alter the building facades or interiors. Alteration does not include repair of deteriorated materials or missing elements when they are replaced in kind or with materials that duplicate the original material as nearly as possible.

